

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

JAMES GASKIN,

Petitioner,

v.

CIVIL ACTION NO. 5:06-cv-00038

TODD R. CRAIG,

Respondent.

**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Petitioner James Gaskin's Application to Proceed *in Forma Pauperis* [Docket 3] and Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody [Docket 1]. By Standing Order entered on July 21, 2004, and filed in this case on January 17, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 7] on January 7, 2009, recommending that this Court **DENY** Petitioner's application to proceed *in Forma Pauperis*, **DISMISS** Petitioner's § 2241 application, and remove this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Petitioner's right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*,

727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by January 26, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 7] in its entirety, **DENIES** Petitioner's application to proceed *in Forma Pauperis* [Docket 3], and **DISMISSES** Petitioner's Application under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody [Docket 1]. A separate Judgment Order will enter this day implementing the rulings contained herein.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: FEBRUARY 9, 2009



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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE